

Introduced by Senator Ayala

February 13, 1998

An act to amend Section 3309.5 of, and to add Section 3304.5 to, the Government Code, relating to public safety officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 1662, as introduced, Ayala. Public safety officers: Procedural Bill of Rights.

The Public Safety Officers Procedural Bill of Rights Act provides that no punitive action, nor denial of promotion on grounds other than merit, shall be undertaken by a public agency without providing the public safety officer with an opportunity for administrative appeal.

This bill would provide that the administrative appeal shall be conducted in conformance with specified provisions relating to administrative adjudication involving state agencies, except that the local agency employing the public safety officer shall appoint the person, board, or commission that will be the hearing officer for the administrative appeal. The bill would also provide that in any case where the superior court finds that a public safety department has violated any of the provisions of the Public Safety Officers Procedural Bill of Rights Act, the affected public safety officer or organization representing public safety officers shall be entitled to an award of reasonable attorney fees. To the extent that these new requirements would apply to local government employers, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3304.5 is added to the
2 Government Code, to read:

3 3304.5. An administrative appeal instituted by a
4 public safety officer under this chapter shall be
5 conducted in conformance with Section 11512, excluding
6 subdivision (a), and Sections 11513, 11514, 11515, and
7 11517, except that the local agency employing the public
8 safety officer shall appoint the person, board, or
9 commission that will be the hearing officer for the
10 administrative appeal.

11 SEC. 2. Section 3309.5 of the Government Code is
12 amended to read:

13 3309.5. (a) It shall be unlawful for any public safety
14 department to deny or refuse to any public safety officer
15 the rights and protections guaranteed to them by this
16 chapter.

17 (b) The superior court shall have initial jurisdiction
18 over any proceeding brought by any public safety officer
19 against any public safety department for alleged
20 violations of this chapter.

21 (c) In any case where the superior court finds that a
22 public safety department has violated any of the
23 provisions of this chapter, the court shall render
24 appropriate injunctive or other extraordinary relief to



1 remedy the violation and to prevent future violations of
2 a like or similar nature, including, but not limited to, the
3 granting of a temporary restraining order, preliminary,
4 or permanent injunction prohibiting the public safety
5 department from taking any punitive action against the
6 public safety officer.

7 *(d) In any case where the superior court finds that a*
8 *public safety department has violated any of the*
9 *provisions of this chapter, the affected public safety*
10 *officer or organization representing public safety officers*
11 *shall be entitled to an award of reasonable attorney fees.*

12 SEC. 3. Notwithstanding Section 17610 of the
13 Government Code, if the Commission on State Mandates
14 determines that this act contains costs mandated by the
15 state, reimbursement to local agencies and school
16 districts for those costs shall be made pursuant to Part 7
17 (commencing with Section 17500) of Division 4 of Title
18 2 of the Government Code. If the statewide cost of the
19 claim for reimbursement does not exceed one million
20 dollars (\$1,000,000), reimbursement shall be made from
21 the State Mandates Claims Fund.

22 Notwithstanding Section 17580 of the Government
23 Code, unless otherwise specified, the provisions of this act
24 shall become operative on the same date that the act
25 takes effect pursuant to the California Constitution.

